IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2184 OF 2007

Mr.Natvar T.Patel and others .. Petitioners.

V/s.

1. State of Maharashtra & Ors. .. Respondents.

Mr. P.K.Dhakephalkar,Sr.Counsel with A.P. Mhatre for the Petitioners.

Mr.R.D.Rane, G.P.for the Respondent Nos. 1,2 & 4.

Mr.F.D'Vitre, Sr.Counsel with Mr.Pankaj Sawant i/by Federal & Rashmikant for the Respondent No.5.

Mr.R.S.Apte for the Respondent No.3.

CORAM : F.I. REBELLO AND
R.M. SAVANT, JJ.

DATED : 26th APRIL, 2007.

P.C.:

. The petitioners herein had already preferred a Suit being Regular Civil Suit No.649 of 2004, wherein various licences under the D.C.Regulations granted in favour of the Respondent No.5 have been challenged, considering the provisions of the Maharashtra Ownership of Flats (Regulation of the Promotion of Construction, Sale, Management & Transfer) Act. It is the case of the petitioners that the present petition pertains to the grant of no objection certificate to the Respondent No.5 by Respondent No.4. for putting a multiplex (cinema

theatre). No objection Certificate has been granted under the provisions of the Maharashtra Cinema (Regulation) Rules, 1966.

2. At the stage of hearing, we asked the learned counsel for the petitioners as to why the petitioners cannot seek the relief now prayed for in the petition, in the suit by amending the plaint and seeking necessary reliefs. The suit is at the stage of recording evidence. One of the petitioners evidence is recorded and is being cross-examined. The learned counsel for the petitioners points out that there is no legal impediment; however, in the suit as filed, the relief prayed here is not a subject matter of the reliefs sought for in the suit. On behalf of the Respondent No.5 and other Respondents, on a query posed by the court, the learned counsel, on instructions, make statements that they would have no objection if the petitioners apply for amendment of the plaint and seek the relief, which is brought for in the writ petition in the said suit and the court allows the same. The statement made on behalf of the Respondent No.5 is accepted.

3. Considering the statement, on behalf of the petitioners the learned counsel seeks leave to withdraw

the petition with liberty to amend the plaint and seek whatever reliefs now sought by the petitioners, in the suit. It is made clear that the statement of the petitioners recorded in evidence that that they have preferred the petition in respect of this relief will not stand in the way of the petitioners' amending the plaint and seeking the relief which is sought now by the amendment. Application for amendment would be made within 7 days from today. The trial court to allow the amendment application and then proceed with the suit. Needless to say that it will be open to the Respondents to file an additional written statement.

4. With the above observations, the petition allowed to be withdrawn with liberty to amend the plaint.

5. It is made clear that all the counsel appearing for the parties, have made the statement that they will not oppose the amendment, it is on that basis that the order has been passed and petition allowed to be withdrawn with liberty.

(F.I.REBELLO,J.)

(R.M.SAVANT,J.)

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